

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALFRED E. DIXON,

No. C 08-03832 SBA (PR)

Petitioner,

**ORDER GRANTING PETITIONER
ADDITIONAL TIME TO FILE
OPPOSITION TO MOTION TO
DISMISS**

v.

EDMUND G. BROWN, JR., Warden,

Respondent.

Petitioner Alfred E. Dixon, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the constitutional validity of his state conviction. On April 22, 2009, the Court ordered Respondent to show cause why the petition should not be granted. On August 21, 2009, Respondent moved to dismiss the petition as a mixed petition containing both exhausted and unexhausted claims. Petitioner opposed the motion.

In an Order dated March 16, 2010, the Court granted the motion to dismiss and ordered Petitioner to make an election regarding how he wanted to proceed with regard to his unexhausted claims. Thereafter, on April 7, 2010, Petitioner filed a letter requesting a stay of the proceedings while he completed the process of exhausting his unexhausted claims. On May 5, 2010, the Court issued an order staying the petition and administratively closing the case. (Dkt. 20).

On February 17, 2011, Petitioner filed a status report indicating that he had exhausted all claims in state court. (Dkt. 34). On March 1, 2011, the Court ordered that Petitioner file an amended petition within thirty days of the filing date of the order. (Dkt. 35). Petitioner timely filed his amended petition on March 11, 2011. (Dkt. 37). On March 16, 2011, the Court lifted the stay and issued an Order for Respondent to show cause why the amended petition should not be granted. (Dkt. 39).

On May 9, 2011, Respondent filed a motion to dismiss the amended petition as untimely and for failure to exhaust state remedies. (Dkt. 43). Petitioner has not filed an

1 opposition. However, on May 4, 2011, Petitioner filed a letter indicating that he had been
2 moved. (Dkt. 42). Petitioner indicates his address is now:

3 F-11362 Housing B-14-132 Low
4 Donovan State Prison, PO Box 799002
San Diego, CA 92179-9002

5 On September 21, 2011, Petitioner filed a letter requesting his case status, indicating
6 that he had not received Respondent's motion to dismiss. The certificate of service attached
7 to Respondent's motion indicates that it did not include the designation "B-14-132 Low" in
8 Petitioner's new address. As such, it is possible that the motion was not delivered to
9 Petitioner. Therefore, the Court will allow Petitioner thirty days from the date this order is
10 filed in which to file an opposition to Respondent's motion to dismiss. The Clerk of the
11 Court shall ensure that Petitioner's correct address is on the docket. The Clerk of the Court
12 shall send to Petitioner a copy of Respondent's motion to dismiss together with this Order.

13 **CONCLUSION**

14 For the foregoing reasons,

15 IT IS HEREBY ORDERED THAT:

16 1. Petitioner is granted thirty (30) days from the date of this Order is filed to file his
17 opposition to Respondent's motion to dismiss. If Petitioner does not file an opposition
18 within this time frame, Respondent's motion will be deemed unopposed and any facts or
19 evidence submitted by Respondent will be undisputed and, therefore, may be taken to be
20 true.

21 2. The Clerk of the Court shall input Petitioner's correct address on the docket.

22 3. The Clerk of the Court shall sent to Petitioner a copy of Respondent's motion to
23 dismiss along with a copy of this Order.

24 IT IS SO ORDERED.

25 DATED: 1/30/13

26 
SAUNDRA BROWN ARMSTRONG
27 United States District Judge
28

G:\PRO-SE\SBA\HC.08\Dixon3832.EOT Opp.wpd

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF CALIFORNIA

ALFRED E DIXON,

Plaintiff,

v.

EDMUND G BROWN JR et al,

Defendant.

Case Number: CV08-03832 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 31, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Alfred E. Dixon F-11362
Donovan State Prison
P.O. Box 799002
San Diego, CA 92179-9002

Dated: January 31, 2013

Richard W. Wieking, Clerk
By: Lisa Clark, Deputy Clerk